

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

BRYON J. FISCHER, Petitioner, vs. DARRIN YOUNG, and THE ATTORNEY GENERAL OF THE STATE OF SOUTH DAKOTA, Respondents.	4:18-CV-04141-KES ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING CASE
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Petitioner, Bryon Fischer, filed a pro se petition for writ of habeas corpus under 28 U.S.C. § 2254. Docket 1. Respondents moved to dismiss the petition without holding an evidentiary hearing. Docket 5. The court referred the petition to a United States magistrate judge under 28 U.S.C. § 636(b) and Rule 8 of the Rules Governing Section 2254 Cases in United States District Courts.

Magistrate Judge Veronica L. Duffy filed a report and recommendation recommending that Fischer's petition be dismissed as untimely. Docket 9. Objections to the report and recommendation were due by March 1, 2019. The time for objections has passed. Fischer did not file objections to the report and recommendation. The court has considered the case de novo and adopts the report and recommendation in full. Thus, it is

ORDERED that the magistrate judge's report and recommendation (Docket 9) is adopted in full. Respondents' motion to dismiss (Docket 5) is granted. Fischer's pro se petition for habeas corpus is denied with prejudice.

IT IS FURTHER ORDERED that Fischer's motion for leave to proceed in forma pauperis (Docket 2) is granted.

IT IS FURTHER ORDERED that based upon the reasons stated and under Fed. R. App. P. 22(b), the court finds that Fischer has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Thus, a certificate of appealability is denied.

DATED this 14th day of March, 2019.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE